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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/777,318	02/12/2004	Bruce Schofield	16420BAUS01U	5590
34645 7590 04/30/2009 Anderson Gorecki & Manaras, LLP Attn: John C. Gorecki P.O BOX 553 CARLISLE, MA 01741			EXAMINER PATEL, CHURAG R	
			ART UNIT 2454	PAPER NUMBER
			NOTIFICATION DATE 04/30/2009	DELIVERY MODE ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary

Application No.

10/777,318

Applicant(s)

SCHOFIELD ET AL.

Examiner

CHIRAG R. PATEL

Art Unit

2454

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 February 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SE/US)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

Response to Arguments

Applicant's arguments with respect to claims 1-13 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-13 are rejected under 35 U.S.C. 102(e) as being anticipated by Rapaport et al. – hereinafter Rapaport (US 2006/0161457).

As per claim 1, Rapaport discloses a method of monitoring the transmission of medical images on a data communications network, the method comprising the steps of:

monitoring a transaction request ([0855]) , said transaction relating to the delivery of medical images ([0023]; effective delivery of medical service information, [0215]; radiologist's reading)through a dynamically determined route on the data communication network; and ([0238]; internet)

notifying an entity associated with the transaction request as to the status of the transaction request. ([0098]; Alerts may be used to selectively notify various Medical Providers or Testing Facility Personnel of problems encountered in making urgent delivery attempts and/or of recently-gathered and important Patient information)

As per claim 2, Rapaport discloses the method of claim 1, wherein the entity associated with the transaction request is a client application. ([0211])

As per claim 3, Rapaport discloses the method of claim 1, wherein the step of notifying comprises notifying the entity when the transaction request is delayed on the network. ([0098]; Alerts may be used to selectively notify various Medical Providers or Testing Facility Personnel of problems encountered in making urgent delivery attempts)

As per claim 4, Rapaport discloses wherein the step of notifying comprises notifying the entity of a scheduled time for delivery of the medical image. ([0098], [0545]; delivery status data: delivery time)

As per claim 5, Rapaport discloses the method of claim 1, wherein the step of notifying comprises notifying the entity of a change in scheduled time for delivery of the medical image ([0098], [0545]; Update the Delivery Schedule)

As per claim 6, Rapaport discloses the method of claim 1, wherein the step of notifying comprises notifying the entity of a delay in scheduled delivery of the medical image. ([0098])

As per claim 7, Rapaport discloses the method of claim 6, wherein the step of notifying comprises notifying the entity of the reason for the delay, the source of the delay, the location of the delay, ([0842]; Figure 10: item 1055) and if other images can still be retrieved. ([0845]; Figure 10: item 1064)

As per claim 8, Rapaport discloses the method of claim 6, wherein the step of notifying comprises notifying the entity of a likely resolutions to the delay. ([0846]; Figure 10: item 1088)

As per claim 9, Rapaport discloses the method of claim 1, wherein the network is a first network , ([0091]; internet) and wherein the step of notifying comprises sending a notification ([0098]) on a second network. ([0091]; internet)

As per claim 10, Rapaport discloses the method of claim 9, wherein the second network is separate from the first network, ([0091]; internet) and wherein the notification ([0098]) is a data message generated on the second network. ([0091])

As per claim 11, Rapaport discloses the method of claim 10, wherein the data message is at least one of an e-mail, a pager message, and a voice message. ([0213])

As per claim 12, Rapaport discloses a medical image transport service configured to monitor the transmission of medical images on a data communications network, comprising:

a data management service, ([0023]; an adaptive communications system) said data management service being configured to monitor the transmission ([0855]) of medical images ([0023]; effective delivery of medical service information, [0215]; radiologist's reading)through a dynamically determined route on the data communication network; and ([0238]; internet)

a client interface configured to provide notifications to a client ([0842]) related to the status of the transmissions (0098); Alerts may be used to selectively notify various Medical Providers or Testing Facility Personnel of problems encountered in making urgent delivery attempts and/or of recently-gathered and important Patient information)

of medical images ([0023]; effective delivery of medical service information, [0215]; radiologist's reading) on the network. ([0238]; internet)

As per claim 13, Rapaport discloses the medical image transport service of claim 12, further comprising a network resource manager configured to interface network devices in the network to resolve delays in the network attendant to transmission of medical images on the network. ([0846]; Figure 10: item 1088)

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chirag R Patel whose telephone number is (571)272-7966. The examiner can normally be reached on Monday to Friday from 8:00AM to 4:30PM. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan Flynn, can be reached on (571) 272-1915.

The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pairedirect.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll free).

/C. R. P./
Examiner, Art Unit 2454

/Nathan J. Flynn/

Supervisory Patent Examiner, Art Unit 2454